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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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MOTOROLA, INC.
1303 EAST ALGONQUIN ROAD
IL01/3RD
SCHAUMBURG, IL 60196

EXAMINER	
CORSARO, NICK	
ART UNIT	**PAPER NUMBER**
2684	

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/027,193	NEEDHAM ET AL.	
	Examiner	Art Unit	
	Nick Corsaro	2684	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *08 January 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-14* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-14* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

RESPONSE TO AMENDMENT

Response to Arguments

1. Applicant's arguments filed 01/08/2004 have been fully considered but they are not persuasive.

The applicant's features in the claims concerning claims 1-14, i.e., a method and apparatus for a base site and mobiles to quickly establish a CDMA dispatch call by transmitting a page to indicate a dispatch call, beginning to transmit the call on the traffic channel; monitoring for any page responses, and when no response has been received ceasing to transmit the dispatch call and de-allocating the traffic channel, reads upon Toyryla in view of Daily, and further in view of Madour and Raith as follows.

Toyryla is discussing a method of setting up a group call in a cellular communication system. The term used in the applicants claim, i.e., dispatch call, reads upon multiparty calls, including: group calls, also called Talk Group calls, conference calls, and dispatch calls, because these type of calls operate on the same principle of associating members to groups either prior to call setup, within a data base, or on demand, or in real time. Both types are common in the art. Multiparty calls are used where several unit are defined to be in the same group, such as businesses, police, taxis, fire department, or even several subscriber wishing to form a group. Therefore, Toyryla is disclosing a dispatch call. Further, the applicant claims the feature in the preamble, of "CDMA" system; however, nothing within the claim is CDMA specific, for example using control channels and paging channels, with paging responses. All of these are features used in FDMA, TDMA, and CDMA systems. Therefore, although Toyryla does not specify system type, Toyryla is citing features common to the above mention systems, therefore,

the features cited by Toyryla are inherently useable in CDMA and thus the applicant's preamble reads on Toyryla. Further, Toyryla shows the feature of " receiving a request for the call, setting up a channel and paging the group members, along with indicating the channel to switch, simultaneously. Therefore, Toyryla shows the applicants limitations of " transmitting a broadcast page via an outbound paging channel that indicates an outbound traffic channel used for the dispatch call". Toyryla further states, once this is done mobile begin joining the call, wherein inherently, the system is waiting some time period for them to join. Therefore, the examiner quoted the section of Toyryla showing the feature, feature of setting up the dispatch call and waiting for responses, and, further said, "logically it follows that if no mobiles respond that the system would wait some amount of time and de-allocate the channel, however, Toyryla was silent on such a limitation. Therefore, Toyryla was modified by Daily to show it is logical and obvious to one skilled in the art for the system to wait for page responses, for a period of time stopping the dispatch call and de-allocating the channel, by using Daily. Where Daily is also speaking of group calls, and daily says, that any base station that does not receive a response in a predetermined time will drop the channel, thus allowing fast group call setup and minimizing the use of resources. Madour and Raith are both reference showing paging techniques that can be used to modify the paging and responses in Toyryla in view of Daily As a result, the applicant's features read upon Toyryla in view of Daily and further in view of Madour and Raith.

In response to the applicants argument, page 7, where the applicant argues that they can not find support or suggestion in Toyryla for the examiners statement " if no mobile responded logically the channel would be de-allocated". However, the examiner did not say that Toyryla

had such a passage. What the examiner was saying is that Toyryla shows that the base stations are waiting for the group members to respond (col. 4 lines 24-36), and that logically to one skilled in the art the base station would not wait forever, but would have some time out period before they stop waiting. Further in the next sentence, the examiner says the Toyryla does not show a passage stating, waiting and de-allocating, but that Daily discloses they time out period and de-allocating of the channel.

In response to the applicants argument page 8, that Daily teaches away from a paging step of normal call setup, the examiner disagrees, in that although, Daily does not teach the normal call setup, Daily is teaching a modification to the normal call setup to speed up the Group call setup where the page is sent simultaneously, and therefore can be used as a modifying. That is what Daily means is that the paging information is sent simultaneously, just as did Toyryla. Further, Daily is only used as the modifying reference to a reference that also does not teach the normal call setup. Therefore, there is nothing in Daily that teaches "away from using it with the primary reference". To teach away, Daily would have to give some indication that it could not be used with the system of Toyryla, which Daily does not. Daily is teaching a modification of the normal call setup, and therefore, is implying it can be used.

In response to the applicant's argument Page 8, were the applicant argues that Daily teaches monitoring the allocated voice channel for a response, and not the access channel, and not for page responses. The examiner would like to point out that the access channel is the traffic channel and the control channel is the paging channel. Daily says monitoring the traffic channel, which is the access channel. The applicant's claim does not say that the access channel is anything different than the traffic channel. Further, the primary reference is showing a page

and the system waiting for responses, since in a cellular communication system the response could be merely the mobile switching to the assigned channel, the feature reads upon the cited art.

In response to the applicant's argument Page 8-9, where the applicant argues that Daily skips the paging step, the examiner reply is the same as discussed above, in What Daily means is simultaneous, because Daily says the Group ID that would normally be sent is sent in one step, with the voice channel allocation. Where the normal system would send a page, with group ID, then wait, the assign a channel, Daily sends a signal that includes both the page and the channel allocation.

Therefore, the examiner disagrees with the applicant's arguments and contends that the claimed features read upon the cited references.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1-2, 6-12, and 14, are rejected under 35 U.S.C. 103(a) as being unpatentable over Toyryla et al. (5,465,391) in view of Daily et al. (6,377,560).

Consider claim 1, Toyryla discloses a method for a base site to quickly establish a dispatch call, inherently applicable to a CDMA dispatch call (see col. 1 lines 10-21, where Toyryla is discussing a group call setup method independent of system type, i.e., applicable to

CDMA because the applicants claimed features are specifying operating procedures such as paging message used by all air interfaces including CDMA). Toyryla discloses transmitting a broadcast page via an outbound paging channel that indicates an outbound traffic channel used for the dispatch call (see col. 1 lines 25-45, col. 3 lines 37-54, col. 4 lines 1-17). Toyryla discloses beginning to transmit -the dispatch call via the traffic channel (see col. 3 lines 37-54, and col. 4 lines 24-35).

Toyryla discloses base stations allocating channels and separately paging mobiles that join the group call where if no mobile responded logically the channel would be de-allocated (see col. 4 lines 24-35), however Toyryla does not specifically disclose monitoring an inbound access channel for page responses to the broadcast page; when no page responses are received within a period of time, ceasing to transmit the dispatch call via the traffic channel; and de-allocating the traffic channel. Daily teaches monitoring an inbound access channel for page responses to the broadcast page; when no page responses are received within a period of time, ceasing to transmit the dispatch call via the traffic channel; and de-allocating the traffic channel (see col. 4 lines 37-41 and col. 4 lines 9-41).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Toyryla, and monitor an inbound access channel for page responses to the broadcast page; when no page responses are received within a period of time, ceasing to transmit the dispatch call via the traffic channel; and de-allocating the traffic channel, as taught by Daily, thus allowing a more efficient group call by not requiring as many system resources, as discussed by Daily (col. 1 lines 34-40).

Consider claim 6, Toyryla discloses a base site (see col. 2 lines 45-50).

Toyryla discloses a transmitter; a receiver; and an inherent controller, coupled to the transmitter and receiver adapted to instruct the transmitter to transmit a broadcast page via an outbound paging channel that indicates an outbound traffic channel used for a dispatch call, adapted to instruct the transmitter to transmit the dispatch call via the traffic channel (see col. 1 lines 25-64, col. 3 lines 37-45, col. 4 lines 1-17, and col. 4 lines 24-35, where Toyryla discusses a base station interacting with the system to page mobiles and to allocated cellular system traffic channels for group calls, therefore, inherently having controllers).

Toyryla discloses base stations allocating channels and separately paging mobiles that join the group call where bases would logically monitor for responding mobiles and if no mobile responded logically the channel would be de-allocated (see col. 4 lines 24-35), however, Toyryla does not specifically disclose the base station adapted to instruct the receiver to monitor an inbound access channel for page responses to the broadcast page; and adapted to de-allocate the traffic channel and to instruct the transmitter to cease transmitting the dispatch call via the traffic channel when no page responses are received within a period of time. Daily teaches the base station adapted to instruct the receiver to monitor an inbound access channel for page responses to the broadcast page; and adapted to de-allocate the traffic channel and to instruct the transmitter to cease transmitting the dispatch call via the traffic channel when no page responses are received within a period of time (see col. 4 lines 37-41 and col. 4 lines 9-41).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Toyryla, and have the base station adapted to instruct the receiver to monitor an inbound access channel for page responses to the broadcast page; and adapted to de-allocate the traffic channel and to instruct the transmitter to cease transmitting the

dispatch call via the traffic channel when no page responses are received within a period of time, as taught by Daily, thus allowing a more efficient group call by not requiring as many system resources, as discussed by Daily (col. 1 lines 34-40).

Consider claim 7, Toyryla discloses a method inherently usable for a CDMA mobile station (MS) to quickly join a CDMA dispatch call (see col. 1 lines 10-21, col. 1 lines 34-45, where Toyryla is discussing a group call setup method independent of system type, i.e., applicable to CDMA because the applicants claimed features are specifying operating procedures such as paging message used by all air interfaces including CDMA). Toyryla discloses receiving a broadcast page on an outbound paging channel that indicates an outbound traffic channel used for the dispatch call (see col. 3 lines 39-53, and col. 4 lines 23-35). Toyryla discloses beginning to receive the dispatch call via the traffic channel (see col. 3 lines 40-53, col. 3 lines 65-67, col. col. 4 lines 1-6 and col. 4 lines 23-35).

Toyryla discloses beginning to receive the dispatch call (col. 3 lines 65-67, col. 4 lines 1-35), however does not specifically disclose transmitting a page response to the broadcast page subsequent to beginning to receive the dispatch call. Daily teaches transmitting a page response to the broadcast page subsequent to beginning to receive the dispatch call (see col. 4 lines 1-41).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Toyryla, and transmitting a page response to the broadcast page subsequent to beginning to receive the dispatch call, as taught by Daily, thus allowing a more efficient group call by not requiring as many system resources, as discussed by Daily (col. 1 lines 34-40).

Consider claim 14, Toyryla discloses A mobile station (MS) (see col. 3 lines 37-54, col. 3 lines 65-67, and col. 4 lines 1-6). Toyryla discloses a transmitter; a receiver adapted to receive a broadcast page on an outbound paging channel that indicates an outbound traffic channel used for a dispatch call; and an inherent processor, coupled to the transmitter and receiver, adapted to instruct the receiver to begin to receive the dispatch call via the traffic channel (see col. 1 lines 25-42, col. 1 lines 10-21, col. 3 lines 20-54, col. 3 lines 65-67, col. 4 lines 1-6, and col. 4 lines 23-35).

Toyryla discloses the mobiles receiving the page message and join the group call, wherein normally said joining is done via a response to the page (col. 4 lines 1-35), however Toyryla does not specifically disclose the mobile and adapted to subsequently instruct the transmitter to transmit a page response to the broadcast page. Daily teaches the mobile and adapted to subsequently instruct the transmitter to transmit a page response to the broadcast page (see col. 4 lines 9-40).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Toyryla, and have the mobile and adapted to subsequently instruct the transmitter to transmit a page response to the broadcast page, as taught by Daily, thus allowing a more efficient group call by not requiring as many system resources, as discussed by Daily (col. 1 lines 34-40).

Consider claim 2 and 8, Toyryla discloses continuing to transceive the dispatch call when mobile join within a period of time (see col. 3 lines 65-67, and col. 4 lines 1-35). Toyryla does not specifically disclose a page response received within a period of time. Daily teaches a page response received within a period of time (see col. 4 lines 9-41). It would have been obvious to

one of ordinary skill in the art at the time the invention was made to modify the invention of Toyryla, and have a page response received within a period of time, as taught by Daily, thus allowing a more efficient group call by not requiring as many system resources, as discussed by Daily (col. 1 lines 34-40).

Consider claim 9 and 10, Toyryla does not specifically disclose the MS transmits the page response on an inbound common access channel. Daily teaches disclose the MS transmits the page response on an inbound common access channel (see col. 4 lines 9-67, and col. 5 lines 5-67). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Toyryla, and have the MS transmit the page response on an inbound common access channel, as taught by Daily, thus allowing a more efficient group call by not requiring as many system resources, as discussed by Daily (col. 1 lines 34-40).

Consider claim 11 and 12, Toyryla does not specifically disclose the inbound common access channel is a slotted response channel. Daily teaches the inbound common access channel is a slotted response channel (see col. 4 lines 9-67, and col. 5 lines 5-67). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Toyryla, and have the inbound common access channel is a slotted response channel, as taught by Daily, thus allowing a more efficient group call by not requiring as many system resources, as discussed by Daily (col. 1 lines 34-40).

3. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Toyryla in view of Daily as applied to claim 1 above, and further in view of Madour et al. (6,108,518).

Consider claims 3 and 4, Toyryla discloses, the method and system, as modified by Daily above. Daily further discloses that the response time is a predetermined time and a time out is

issued and the channel is released (see col. 4 lines 4 lines 28-41 and col. 5 lines 5-67). Toyryla and Daily do not specifically disclose the period of time is equivalent to an amount of time for a base site to receive a page response to a broadcast page in a worst-case scenario. Madour teaches the period of time is equivalent to an amount of time for a base site to receive a page response to a broadcast page in a worst-case scenario (see abstract lines 17-25 and col. 2 lines 17-61). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Toyryla and Daily, and have the period of time is equivalent to an amount of time for a base site to receive a page response to a broadcast page in a worst case scenario, as taught by Madour, thus allowing system resources to be saved.

4. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Toyryla in view of Daily as applied to claim 1 above, and further in view of Bhat et al. (6,075,994).

Consider claims 5, Toyryla discloses, the method and system, as modified by Daily above. Daily further discloses that the response time is a predetermined time and a time out is issued and the channel is released (see col. 4 lines 4 lines 28-41 and col. 5 lines 5-67). Toyryla and Daily do not specifically disclose the period of time is determined by the base site based on a history of time taken to respond to broadcast pages. Bhat teaches the period of time is determined by the base site based on a history of time taken to respond to broadcast pages (see col. 1 lines 31-50 and col. 3 lines 44-60). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Toyryla and Daily, and have the period of time is determined by the base site based on a history of time taken to respond to broadcast pages, as taught by Bhat, thus allowing system processing load to be reduced, as discussed by Bhat (col. 3 lines 37-44).

5. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Toyryla in view of Daily as applied to claim 11 above, and further in view of Raith et al. (6,331,971).

Consider claim 13, Toyryla and Daily does not specifically disclose the MS transmits the page response in a slot determined based on the MS's identification number. Raith teaches the MS transmits the page response in a slot determined based on the MS's identification number (see col. 5 lines 24-45, col. 3 lines 27-52). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Toyryla and Daily, and have the MS transmits the page response in a slot determined based on the MS's identification number, as taught by Raith, thus allowing a correspondence between the mobiles and the control channel, as discussed by Raith (col. 3 lines 50-52).

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication should be directed to Nick Corsaro at telephone number (703) 306-5616.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay Maung, can be reached at (703) 308-7745. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

Or faxed to:

(703) 872-9314 (for Technology center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth, Floor (Receptionist). Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 customer Service Office whose telephone number is (703) 306-0377.

Nick Corsaro

Primary Examiner